



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2013-0055; FRL-9820-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Allegheny County Reasonably Available Control Technology Under the 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision for the Commonwealth of Pennsylvania submitted by Allegheny County Health Department (ACHD). This SIP revision consists of a demonstration that Allegheny County's portion of the Pennsylvania requirements of reasonably available control technology (RACT) for nitrogen oxides (NO_x) and volatile organic compounds (VOCs) satisfy the RACT requirements set forth by the Clean Air Act (CAA). This SIP revision demonstrates that all requirements for RACT are met through: certification that previously adopted RACT controls in Pennsylvania's SIP that were approved by EPA under the 1-hour ozone national ambient air quality standards (NAAQS) are based on the currently available technically and economically feasible controls, and that they continue to represent RACT for the 8-hour ozone NAAQS; a negative declaration demonstrating that no facilities exist in Allegheny County for certain control technology guideline (CTG) categories; and a new RACT determination for a specific source. This action is being taken under the CAA.

DATES: This final rule is effective on [insert date 30 days from date of publication].

ADDRESSES: EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2013-0055**. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201. Copies are also available at Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Emlyn Vélez-Rosa, (215) 814-2038, or by e-mail at velez-rosa.emlyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On February 26, 2013 (78 FR 13007), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of Allegheny County’s SIP

revision addressing the RACT requirements under the 8-hour ozone NAAQS. The formal SIP revision was submitted by the Commonwealth of Pennsylvania on May 5, 2009.

EPA requires for the 8-hour ozone NAAQS that states meet the CAA RACT requirements, either through a certification that previously adopted RACT controls in their SIP approved by EPA under the 1-hour ozone NAAQS represent adequate RACT control levels for 8-hour ozone NAAQS attainment purposes or through the establishment of new or more stringent requirements that represent RACT control levels. *See Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard--Phase 2; Final Rule To Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline (Phase 2 Rule)*, (70 FR 71612, 71655, November 29, 2005).

II. Summary of the SIP Revision

On May 5, 2009, the Pennsylvania Department of Environmental Protection (PADEP) submitted on behalf of ACHD a SIP revision addressing the RACT requirements for Allegheny County under the 8-hour ozone NAAQS set forth by the CAA. Allegheny County's SIP revision is consistent with the Phase 2 Rule and satisfies the requirements of RACT set forth by the CAA under the 8-hour ozone NAAQS through: (1) Certification that previously adopted RACT controls in Allegheny County's SIP, which were approved by EPA under the 1-hour ozone NAAQS, are based on the currently available technically and economically feasible controls and continue to represent RACT for the 8-hour ozone NAAQS; (2) a negative declaration demonstrating that no facilities exist in Allegheny County for the applicable CTG categories; and

(3) a new RACT determination for a single source based upon reliance on the Maximum Achievable Control Technology (MACT) standard as allowed in the Phase 2 Rule. Additional details on the SIP revision as well as the rationale for EPA's proposed action are included in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is approving Allegheny County's 8-hour ozone RACT demonstration submitted to EPA on May 5, 2009 as a revision to the Allegheny County's portion of the Commonwealth of Pennsylvania's SIP.

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed, and shall not postpone the effectiveness of such rule or action. This action, which approves Allegheny County's 8-hour ozone RACT demonstration, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: May 16, 2013.

W. C. Early,
Acting Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart NN–Pennsylvania

2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for RACT under the 8-hour ozone NAAQS for Allegheny County at the end of the table. The added text reads as follows:

§ 52.2020 Identification of plan.

* * * * *

(e)***

(1) ***

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *				
RACT under the 8-hour ozone NAAQS	Allegheny County	5/5/09	[Insert Federal Register publication date] [Insert page number where the document begins]	

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[FR Doc. 2013-13598 Filed 06/07/2013 at 8:45 am; Publication Date: 06/10/2013]